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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 J.S.¹,

14 Petitioner-Plaintiff,

15 vs.

16 FERETI SAMAIA, Warden, Adelanto
17 Detention Center; ERNESTO
18 SANTACRUZ, JR., Field Office
19 Director, Los Angeles Office of

Case No.: 25-3448

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration;

18 _____
19 ¹ Petitioner will move this Court for leave to proceed under a pseudonym (using the
20 initials J.S.).

* Application for admission to this Court pending (Tracking Number
NBA-251216-001-4717).

1 Detention and Removal, U.S.
2 Immigration and Customs Enforcement;
3 TODD M. LYONS, Acting Director,
4 U.S. Immigration and Customs
5 Enforcement, U.S. Department of
6 Homeland Security; and KRISTI
7 NOEM, Secretary, U.S. Department of
8 Homeland Security,
9 Respondents-Defendants.

Request for Declaratory and Injunctive
Relief

6
7 Petitioner J.S. petitions this Court for a writ of habeas corpus under 28
8 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states
9 as follows:

10 **INTRODUCTION**

11 1. Petitioner J.S. ("Petitioner" or "Mr. J.S.") has resided primarily in the
12 U.S. since 1994. He entered the U.S. without inspection three times, most recently
13 in 2001. Immigration authorities apprehended him on his way to work in
14 Sacramento, California, on November 7, 2025.

15 2. Petitioner remains unlawfully detained at Adelanto Detention Center
16 ("Adelanto") in Bakersfield, California, and is subject to removal proceedings. Mr.
17 J.S. is statutorily eligible for relief in the form of cancellation of removal ("COR")
18 given the duration of time, over 20 years, he has lived in the U.S. prior to the
19 commencement of the removal proceedings against him and the hardship affecting
20 his qualifying relatives.

1 3. Mr. J.S. is married to a U.S. lawful permanent resident (“LPR”), and
2 has two minor U.S. citizen (“USC”) children for whom he is a source of emotional
3 support and is the primary financial provider.

4 4. Petitioner is charged with entering the United States without
5 inspection and being present without valid immigration documents. 8 U.S.C.
6 1182(a)(6)(A)(i). **Exhibit 1, Notice to Appear** (“NTA”).

7 5. On December 3, 2025, Petitioner filed a Motion for Release on Bond
8 Determination with the Adelanto Immigration Court. The motion was denied the
9 same day for lack of jurisdiction over the request for custody determination
10 pursuant to *Matter of YAJURE HURTADO*, **29 I&N Dec. 216** (BIA 2025). **Exhibit**
11 **2, Denial of Petitioner’s Bond Request.**

12 6. On December 8, 2025, Petitioner filed with the Adelanto Immigration
13 Court a Motion to Reconsider the Denial of the Motion for Release on Bond. In the
14 motion to reconsider, Petitioner argued the court should follow *Maldonado v Noem*,
15 No. 5:25-cv-01873-SSS-BFM (C.D. Cal.) rather than *Matter of Yajure Hurtado*, **29**
16 **I&N Dec. 216** (BIA 2025) when deciding Petitioner’s Motion for Release on Bond.
17 The Motion to Reconsider was denied the same day that it was filed alleging the
18 motion did not specify errors of law or fact in the previous order or is not supported
19 by pertinent authority referencing Immigration and Nationality Act (“INA”) §
20

1 240(c)(6)(C) and 8 CFR § 1003.23(b)(2). **Exhibit 3**, Denial of Petitioner's Motion
2 to Reconsider the Denial of the Motion for Release on Bond.

3 7. Respondents commenced removal proceedings against Mr. J.S. in
4 immigration court, entitling him to present a COR application under the due
5 process rights accorded by 8 U.S.C. § 1229a. Mr. J.S. is statutorily eligible for
6 COR because he had lived in the United States for more than 10 years when served
7 the NTA, has no crimes that would make him inadmissible to the United States, has
8 good moral character, and his removal from the U.S. will cause exceptional and
9 extremely unusual hardship to his LPR wife and his two (2) USC minor children.

10 8. Respondent is scheduled for a Master (preliminary) Hearing on
11 February 5, 2026. **Exhibit 4**, Notice of Hearing in Removal Proceedings.

12 9. Mr. J.S.'s arrest is part of a new, nationwide Department of Homeland
13 Security ("DHS") strategy of sweeping up people who are in the U.S. without legal
14 status. Since approximately mid-May 2025, DHS has implemented a coordinated
15 practice of leveraging immigration detention to strip people like Mr. J.S. of their
16 substantive and procedural rights. In addition to stripping undocumented
17 immigrants of their due process rights, DHS is also trying to pressure them into
18 deportation or else face confinement in overcrowded and dangerous conditions
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1 within U.S. immigration detention.² Immigration detention is civil, and thus is
2 permissible for only two reasons: to ensure a noncitizen's appearance at
3 immigration hearings and to prevent danger to the community. But DHS did not
4 arrest and detain Mr. J.S. to ensure he appeared at an immigration hearing because
5 none was scheduled or to prevent a danger to the community because Mr. J.S. has
6 no history of violence towards anyone. In fact, DHS arrested Petitioner four (4)
7 days after the Sacramento District Attorney ("DA") chose NOT to prosecute
8 Petitioner in connection with the alleged domestic violence incident that occurred
9 on October 28, 2025. It is noteworthy that the Sacramento DA did not think Mr.
10 J.S. posed a risk or danger to the community.

11 10. In immigration court, noncitizens have the right to pursue claims for
12 relief from removal (including COR), be represented by counsel, gather and present
13 evidence, and pursue appeals. 8 U.S.C. § 1229(a).

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17 ² American Immigration Counsel, Trump Administration Deadlier for ICE
18 Detainees Than COVID-19 Pandemic, (Oct. 17, 2025),
19 [https://www.americanimmigrationcouncil.org/blog/trump-deadlier-for-ice-](https://www.americanimmigrationcouncil.org/blog/trump-deadlier-for-ice-detainees-than-covid-19-pandemic/)
20 [detainees-than-covid-19-pandemic/](https://www.americanimmigrationcouncil.org/blog/trump-deadlier-for-ice-detainees-than-covid-19-pandemic/) (last visited Oct. 23, 2025) ("The
administration's push for mass detentions and deportations has led to overcrowding
as most facilities now exceed their contractual capacity. Across detention centers,
overcrowding has resulted in dire and inhumane conditions.").

1 11. Despite apprehending him without notice or due process, placing him
2 at risk of being transferred away from his family which resides in the Eastern
3 District of California, Mr. J.S. remains in Respondents' physical and legal custody.
4 Respondents seek to keep Mr. J.S. detained without a meaningful opportunity to
5 seek a bond or custody redetermination hearing. *See* 8 U.S.C. § 1225. Respondents
6 do so based not on Mr. J.S.'s personal circumstances or individualized facts.

7 12. But Respondents should not be able to evade due process requirements
8 so easily. The U.S. Constitution requires that Respondents provide at least the
9 rights available to Petitioner when he was arrested and now that he is scheduled for
10 a removal hearing.

11 13. The Constitution protects Mr. J.S.—and every other person present in
12 this country—from arbitrary deprivations of his/her liberty, and guarantees him/her
13 due process of law. The government's power over immigration is broad, but as the
14 Supreme Court has declared, it "is subject to important constitutional limitations."
15 *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has
16 always been at the core of the liberty protected by the Due Process Clause from
17 arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

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1 14. Mr. J.S. seeks declaratory and injunctive relief to compel his
2 immediate release from the immigration jail where he has been held by DHS since
3 being unlawfully detained on November 7, 2025, without first being provided a due
4 process hearing to determine whether his incarceration is justified.

5 15. Absent review in this Court, no other neutral adjudicator will examine
6 Mr. J.S.'s plight: Respondents will continue—unchecked—to detain Mr. J.S.
7 unlawfully without due process.

8 16. For the reasons outlined below, Mr. J.S.'s arrest and inability to
9 contest his arbitrary detention violate his statutory and constitutional rights,
10 including Due Process protections under the U.S. Constitution. Mr. J.S. respectfully
11 requests that this Court grant the instant petition for a writ of habeas corpus,
12 without any bond requirement, and for declaratory and injunctive relief, to prevent
13 such harms from recurring. Petitioner also asks this Court to find that Respondents'
14 attempts to detain, transfer, and possibly deport him are arbitrary and capricious
15 and in violation of the law, and to immediately issue an order preventing his
16 transfer out of this district as well as his removal out of the U.S.

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JURISDICTION

17. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101, *et seq.*

18. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

19. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

20. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

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VENUE

21. Venue is proper because Petitioner is in Respondents' legal and physical custody at Adelanto in Bakersfield, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' legal and physical custody, including his current and ongoing detention under the legal and physical custody of Respondent Semaia, warden of Adelanto. 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (habeas petition must be addressed to the federal district court of confinement); *Wairimu v. Dir., Dep't of Homeland Sec.*, No. 19-CV-174-BTM-MDD, 2019 WL 460561, at *2 (S.D. Cal. Feb. 5, 2019) (district of confinement is the preferable forum even if the Court otherwise has personal jurisdiction).

CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

22. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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23. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

24. Mr. J.S. is “in custody” for the purpose of 28 U.S.C. section 2241 because he was arrested by Respondents and remains in their legal and physical custody at Adelanto Detention Center in Bakersfield, California. He is under Respondents’ and their agents’ direct control.

PARTIES

25. Mr. J.S. is a 53-year-old citizen of Mexico. He first arrived in the U.S. in 1994 after fleeing from violence, corruption, and poverty. Most recently, he entered the U.S. in 2001 and has lived in the U.S. since then. On November 7, 2025, Respondents' agents took Mr. J.S. into their custody. Since his arrest on November 7, 2025, Mr. J.S. has remained in Respondents' custody.

26. Mr. J.S. is currently residing in Respondents' custody at the Adelanto Detention Center in Bakersfield, California, as of the time of the filing of this petition.

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1 27. Respondent Fereti Samaia (“Samaia”) is the Senior Warden at
2 Adelanto Detention Center in Bakersfield, California, where Mr. J.S. is detained.
3 Samaia is responsible for the day-to-day operations and confinement of non-
4 citizens detained at that facility. He acts at the direction of Respondents Santacruz,
5 Lyons, and Noem. Samaia is a custodian of Mr. J.S. and is named in his official
6 capacity.

7 28. Respondent Ernesto Santacruz, Jr. (“Santacruz”) is the Field Office
8 Director of ICE in Los Angeles, California. He acts at the direction of Respondents
9 Lyons and Noem. ICE is responsible for local custody decisions relating to non-
10 citizens charged with being removable from the U.S., including the arrest,
11 detention, custody status, and removal of non-citizens. The Los Angeles Field
12 Office’s area of responsibility includes Adelanto in Bakersfield, San Bernardino
13 County, California. Respondent Santacruz is a custodian of Mr. J.S. and is named
14 in his official capacity.

15 29. Respondent Todd Lyons (“Lyons”) is the Acting Director of US ICE,
16 and he has authority over the actions of Respondents Samaia and Santacruz. ICE is
17 responsible for local custody decisions relating to non-citizens charged with being
18 removable from the U.S., including the arrest, detention, custody status, and
19 removal of non-citizens. Respondent Lyons is a custodian of Mr. JS and is named
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1 in his official capacity.

2 30. Respondent Kristi Noem (“Noem”) is the Secretary of DHS and has
3 authority over the actions of all other DHS Respondents in this case, as well as all
4 operations and federal agencies of DHS, including ICE. In her capacity as
5 Secretary of DHS, Respondent Noem is charged with faithfully administering the
6 immigration and naturalization laws of the United States. 8 U.S.C. § 1103(a).

7 Respondent Noem is a custodian of Mr. J.S. and is named in her official capacity.

8 31. Respondent ICE is responsible for local custody decisions relating to
9 non-citizens charged with being removable from the U.S., including the arrest,
10 detention, custody status, and removal of non-citizens.

11 32. Respondent DHS is the federal agency that has authority over the
12 actions of ICE and all other DHS Respondents.

13 33. This action is commenced against Respondents Samaia, Santacruz,
14 Lyons, and Noem (collectively, “Respondents”) all in their official capacities.

15 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

16 34. Petitioner has no administrative remedies to exhaust.

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1 35. “On habeas review under § 2241, exhaustion is a prudential rather than
2 jurisdictional requirement.” *Singh v. Holder*, 638 F.3d 1196, 1203, n. 3 (9th Cir.
3 2011). Here, there is no requirement to exhaust because no other forum exists in
4 which Petitioner can raise the due process claims contesting the unlawfulness of his
5 detention.

6 36. On November 7, 2025, Respondents filed an NTA before the Adelanto
7 Immigration Court to initiate removal proceedings against Petitioner while he
8 remains detained at Adelanto. **Exhibit 1**, NTA.

9 37. On December 3, 2025, the Adelanto Immigration Judge (“IJ”) denied
10 Petitioner’s bond and custody redetermination request. **Exhibit 2**, Denial of
11 Petitioner’s Bond Request. The decision cited *Matter of Yajure Hurtado*, 29 I&N
12 Dec. 216 (BIA 2025) as the reason it lacked jurisdiction over Petitioner’s request
13 for custody redetermination. *Id.*

14 38. On December 8, 2025, the Adelanto IJ denied Petitioner’s motion for
15 reconsideration of its bond denial. **Exhibit 3**, Denial of Petitioner’s Motion to
16 Reconsider the Denial of the Motion for Release on Bond.

17 39. On December 10, 2025, during his second master calendar hearing in
18 detention since his arrest, the Adelanto IJ agreed to schedule Petitioner for an
19 Individual (i.e., “Merits” or “Final”) hearing as soon as the relevant filings are
20

1 completed. The due date for completing the COR filings is February 4, 2026. The
2 Individual Hearing will likely be scheduled for the end of March or the beginning
3 of April 2026. That is a very long unlawful detention for Petitioner, his LPR wife,
4 and USC children who are suffering psychological and financial harm due to
5 Petitioner's capricious and arbitrary detention.

6 40. Administrative exhaustion is not required where "...administrative
7 remedies are inadequate or not efficacious, pursuit of administrative remedies
8 would be a futile gesture, irreparable injury will result, or the administrative
9 proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)
10 (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir.1981)).

11 41. Here, administrative exhaustion would be futile in light of
12 Respondents' denial of Petitioner's bond and custody redetermination request
13 based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). **Exhibit 2**,
14 Denial of Petitioner's Bond Request; **Exhibit 3**, Denial of Petitioner's Motion to
15 Reconsider the Denial of the Motion for Release on Bond.

16 42. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr.
17 J.S's constitutional, statutory, and regulatory rights and restore his liberty.

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FACTUAL BACKGROUND

43. Mr. J.S. is a 53-year-old citizen of Mexico. He has lived in the U.S. for approximately 33 years.

44. Mr. J.S. has lived with his wife in the U.S. for approximately 28 years. Together, they have four USC (4) children. The two younger children live with Petitioner and his wife. The two older children live independently but come home for the weekends. Petitioner's wife only works part-time. The two younger children are totally dependent on Petitioner. The two older children receive assistance from their father on an as-needed basis. Mr. J.S.'s wife and children depend on him financially, emotionally, and physically.

45. Petitioner has a confidential application pending with USCIS. Petitioner is also statutorily eligible for COR because he has an LPR wife and two (2) USC minor children who will suffer exceptional and extremely unusual hardship if Petitioner is removed from the U.S.

46. Petitioner has entered the USA three (3) times without inspection. His last entry was in February of 2001.

47. On October 28, 2025, Mr. J.S. was arrested after a domestic dispute. He was released shortly after. The Sacramento DA declined to prosecute Mr. J.S.

48. On October 30, 2025, Mr. J.S. appeared in Sacramento County

1 Superior Court regarding the domestic dispute-related arrest. As indicated above,
2 the Sacramento DA declined to prosecute the matter.

3 49. On November 7, 2025, as Mr. J.S. drove to work, ICE agents
4 surrounded his vehicle and arrested him without notice. Respondent detained Mr.
5 J.S. briefly at the Sacramento local ICE office and then transferred him to Adelanto
6 where Mr. J.S. remains today.

7 50. Respondents issued an NTA charging Mr. J.S. with removal under INA
8 § 212 (a)(6)(A)(i) (present in the USA without being admitted or paroled, or who
9 arrived in the USA at any time or place other than as designated by the Attorney
10 General). **Exhibit 1**, NTA.

11 51. On December 3, 2025, an Adelanto I.J. denied Petitioner's Motion for
12 Release on Bond.

13 52. On December 8, 2025, an Adelanto I.J. denied Petitioner's Motion to
14 Reconsider the Denial of the Motion for Release on Bond.

15 53. Petitioner will continue pursuing his confidential immigration benefit
16 and will also apply for COR by February 4, 2026.

17 54. Cancellation of Removal is one of the most complicated legal
18 proceedings in Immigration Court. Petitioner's freedom is necessary to protect and
19 restore his liberty interest while continuing his case.

55. A Master (preliminary) Immigration hearing has been set for February 5, 2026, to continue the Removal Proceedings.

56. Mr. J.S. remains detained, in Respondents' legal and physical custody, at Adelanto in Bakersfield, California.

LEGAL FRAMEWORK

57. Since November 7, 2025, Respondents have detained Mr. J.S. without giving him an individualized bond hearing in violation of his rights under the INA and the Fifth Amendment's Due Process Clause.

58. The U.S. Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas*, 533 at 690. Even “[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government’s asserted justification for physical confinement outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (internal quotations omitted).

1 59. Due process rights are both substantive and procedural. Substantive
2 due process requires that all forms of civil detention bear a “reasonable relation” to
3 a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The
4 Supreme Court has recognized only two permissible non-punitive purposes for
5 immigration detention: ensuring a noncitizen’s appearance at immigration
6 proceedings and preventing danger to the community. *Zadyvdas*, 533 U.S. at 690-
7 92; *see also Demore*, 538 U.S. at 519-520, 527-28, 531.

8 60. Procedural due process requires adequate procedural safeguards *before*
9 the deprivation of liberty. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (noting the
10 pre-liberty deprivation hearing is a Constitutional requirement). This is so even in
11 cases where freedom is lawfully revocable. *See Young v. Harper*, 520 U.S. 143,
12 146-47 (1997) (noting that as part of the liberty protected by the Due Process
13 Clause, a weighty liberty interest exists); *Morrissey v. Brewer*, 408 U.S. 471 (1972)
14 (same, in parole context)

15 61. To guarantee against arbitrary detention and to guarantee the right to
16 liberty, due process requires “adequate procedural protections” that ensure the
17 government’s asserted justification for a noncitizen’s physical confinement
18 “outweighs the individual’s constitutionally protected interest in avoiding physical
19 restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

1 62. Due process thus guarantees notice and an individualized hearing
2 before a neutral decisionmaker to assess danger or flight risk. *Goldberg v. Kelly*,
3 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the
4 opportunity to be heard at a meaningful time in a meaningful manner.”)
5 (citation modified). Thus, the failure to provide notice and opportunity to be heard
6 creates irreparable harm. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir.
7 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)) (“It is well established
8 that the deprivation of constitutional rights ‘unquestionably constitutes irreparable
9 injury.’”).

10 63. Despite these due process liberty protections, on July 8, 2025, DHS
11 changed its detention policies by requiring that all individuals present in the U.S.
12 without admission be treated as subject to mandatory detention under 8 U.S.C.
13 1225(b)(2), ignoring statutory language and decades of precedent classifying such
14 persons as bond eligible under 8 U.S.C. section 1226(a). *See Maldonado Bautista v.*
15 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *1 (C.D. Cal.
16 Nov. 20, 2025).

17 64. This District flatly rejected the July 8, 2025, policy change as
18 discussed in *Maldonado Bautista*. *See Maldonado Bautista v. Santacruz*, No. 5:25-
19 CV-01873-SSS-BFM, 2025 WL 3289861, at *10 (C.D. Cal. Nov. 20, 2025) (“Such

1 a premise cannot be harmonized with other portions of the INA.”). On November
2 20, 2025, the Court in *Maldonado Bautista* granted partial summary judgement in
3 favor of the noncitizen petitioners unlawfully detained at Adelanto who were
4 charged as being present in the U.S. without admission. *Maldonado Bautista v.*
5 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861
6 (C.D. Cal. Nov. 20, 2025).

7 65. On November 25, 2025, this District further granted class certification
8 extending declaratory relief to all members of the Bond Eligible Class in
9 *Maldonado Bautista* defined as:

10 All noncitizens in the United States without lawful status who (1) have entered
11 or will enter the United States without inspection; (2) were not or will not be
12 apprehended upon arrival; and (3) are not or will not be subject to detention
under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
of Homeland Security makes an initial custody determination.

13 (“Bond Eligible Class”). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
14 SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (“With this in
15 mind, the Court finds a nationwide Bond Eligible Class is appropriate.”).

16 66. Due process principles compel Mr. J.S.’s immediate release from
17 detention at Adelanto. Civil immigration detention is not meant to be punitive. *See*
18 *Zadyvdas*, 533 U.S. at 690-92; *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1036 (N.D.
19 Cal. 2025) (“Detention for its own sake, to meet an administrative quota, or

1 because the government has not yet established constitutionally required pre-
2 detention procedures is not a legitimate government interest.”). Yet, Respondents
3 did not afford Mr. J.S., who has lived in the U.S. for over 30 years, due process.

4 **Exhibit 2, Denial of Petitioner’s Motion for Release on Bond.**

5 67. Respondents have also misapplied the INA. The government’s policy
6 changes do not convert long-time U.S. residents into noncitizens who are newly
7 seeking admission into the U.S. *See, e.g., Rodriguez Gutierrez v. LaRose, et al.*,
8 No. 25-CV-03310-BAS-AHG, 2025 WL 3626160, at *3 (S.D. Cal. Dec. 12, 2025)
9 (“Petitioner, under the plain meaning of the statute, is not seeking admission to the
10 United States. He was already in the country and had been living in the United
11 States since 1994, for *over 30 years*, at the time of his arrest and is thus subject to
12 Section 1226(a).”); *Quinonez Orosco v. Lyons, et al.*. Respondents., No. 2:25-CV-
13 02240-RFB-EJY, 2025 WL 3539275, at *2 (D. Nev. Dec. 10, 2025) (granting
14 habeas for a long time U.S. resident of 12 years and noting that “[t]he
15 overwhelming majority of district courts across the country, including this Court,
16 that have considered the government’s new statutory interpretation have found it
17 incorrect and unlawful.”).

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19 ///

68. Respondents' conduct is contrary to the Constitution, INA, and Administrative Procedure Act ("APA"). Additionally, there is a non-negligible risk that the immigration court and BIA may continue to consider Petitioner as mandatorily detained under U.S.C. 1225(b)(2) even *after* a district court finds otherwise ordered released. *See, e.g., Puerto-Hernandez v. Lynch*, No. 1:25-CV-1097, 2025 WL 3012033, at *12 (W.D. Mich. Oct. 28, 2025) (granting habeas and ordering release of a noncitizen petitioner who entered the U.S. as a child after the district court determined the petitioner was detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A)) (attached hereto as **Exhibit 5**); *c.f. Matter of Puerto Hernandez* (BIA 2025) (BIA decision dated December 12, 2025, finding the same petitioner previously ordered released by the Western District of Michigan to be mandatorily detained under § 1225(b)(2)(A) and vacating the Immigration Judge's order granting release) (attached hereto as **Exhibit 6**).

69. Petitioner has exhausted any administrative remedies available to him. The Adelanto Immigration Court denied both his bond request and his motion to reconsider the denial of that request. **Exhibit 2**, Denial of Petitioner's Bond Request; **Exhibit 3**, Denial of Petitioner's Motion to Reconsider the Denial of the Motion for Release on Bond; **Exhibit 4**, Notice of Hearing in Removal Proceedings.

1 70. Despite clear orders in this district declaring Respondents' detention
2 policies to be unlawful, Respondents continue to detain Petitioner unlawfully.
3 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL
4 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The Court should, therefore, order
5 Petitioner's immediate release from Adelanto.

6 **CAUSES OF ACTION**

7 **COUNT ONE**

8 **Violation of Fifth Amendment Right to Due Process – Substantive Due**
9 **Process, U.S. Const. Amend. V.**

10 71. Petitioner restates, realleges, and incorporates by reference each and
11 every allegation in the paragraphs above as if fully set forth herein.

12 72. The Due Process Clause of the Fifth Amendment to the U.S.
13 Constitution prohibits the federal government from depriving any person of "life,
14 liberty, or property, without due process of law." U.S. Const. Amend. V. Due
15 process protects "all 'persons' within the United States, including [non-citizens],
16 whether their presence here is lawful, unlawful, temporary, or permanent."
17 *Zadvydas*, 533 U.S. at 693.

18 73. Due process requires that government action be rational and non-
19 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

20 ///

75. See generally *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

COUNT TWO

Violation of Fifth Amendment Right to Due Process – Procedural Due Process.

U.S. Const. Amend. V.

76. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

32. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

77. Mr. J.S. has a fundamental interest in liberty and being free from official restraint.

/ / /

79. The government's detention of Petitioner without a meaningful bond and custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to procedural due process.

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority

80. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

81. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

82. This District has clarified that the July 8, 2025, DHS policy change expanding mandatory detention to noncitizens who entered without inspection is unlawful. *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *1 (C.D. Cal. Nov. 20, 2025). “Thus, Respondents’ expansive interpretation of “applicants for admission” would effectively nullify a portion of the INA through the DHS’s legislative or interpretive exercise of power. Neither is appropriate under

1 the separation of powers.” *Id.* at *10 (citing *Loper Bright Enterprises v. Raimondo*,
2 603 U.S. 369, 386 (2024)).

3 83. Mr. J.S. is not subject to Respondents’ July 8, 2025, policy directive.
4 Thus, the application of the July 8, 2025, policy to label Petitioner as ‘seeking
5 admission’ despite over 20 years residing in the U.S. is unlawful, arbitrary, and
6 capricious.

7 **COUNT FOUR**

8 **Violation of the INA:**

9 **Request for Relief Pursuant to *Maldonado Bautista***

10 84. Petitioner restates, realleges, and incorporates by reference each and
11 every allegation in the paragraphs above as if fully set forth herein.

12 85. As a member of the Bond Eligible Class certified by this district,
13 Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
14 *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9
15 (C.D. Cal. Nov. 25, 2025).

16 86. The Court in *Maldonado Bautista* holds that Respondents violate the
17 INA in applying the mandatory detention statute at § 1225(b)(2) to class members.
18 *Id.* at *5 (“Much like the Petitioners, putative class members are noncitizens who
19 already arrived in the United States without inspection, or will enter the United
20 States and not face inspection.”). Further, the Court in *Maldonado Bautista*

1 “extends the same declaratory relief granted to Petitioners to the Bond Eligible
2 Class as a whole.” *Id.* at *9.

3 87. Respondents are parties to *Maldonado Bautista* and bound by the
4 Court’s declaratory judgment, which has the full “force and effect of a final
5 judgment[.]” 28 U.S.C. § 2201(a).

6 88. By denying Petitioner a bond hearing for an alleged lack of
7 jurisdiction pursuant to *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025),
8 Respondents violate Petitioner’s statutory rights under the INA and the Court’s
9 judgment in *Maldonado Bautista*.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 12 (1) Assume jurisdiction over this matter;
13 (2) Issue an Order to Show Cause ordering Respondents to show cause why
14 this Petition should not be granted within three days;
15 (3) Issue an Order prohibiting the Respondents from transferring Petitioner
16 outside of the jurisdiction of the ICE Los Angeles Field Office and/or the
17 Central District of California pending resolution of this case;
18 (4) Issue a Writ of Habeas Corpus ordering Respondents to immediately
19 release Petitioner from DHS custody unless and until DHS proves to a
20 neutral adjudicator by clear and convincing evidence that Petitioner is a
21 danger or flight risk;

1 (5) Alternatively, issue an Order requiring Respondents to provide a bond
2 and custody redetermination hearing within 7 days where DHS bears the
3 burden of justifying Petitioner's continued detention by clear and convincing
4 evidence and the Court takes into consideration alternatives to detention and
5 Petitioner's ability to pay a bond;

6 (6) Declare that Petitioner's detention without an individualized
7 determination violates the Due Process Clause of the Fifth Amendment;

8 (7) Declare that refusal to allow Petitioner a meaningful bond and custody
9 redetermination hearing violates the INA, APA, and the Due Process Clause
10 of the Fifth Amendment;

11 (8) Award Petitioner's counsel reasonable attorney's fees and costs under the
12 Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis
13 justified under law;

14 (9) Grant any and all other further relief this Court deems just or proper.

15 Dated: December 18, 2025

16 Respectfully Submitted,

17 /s/ Mihret Getabicha

18 Mihret Getabicha (CA SBN 326787)

19 mihret@caleilaw.com

20 CALIFORNIA LABOR EMPLOYMENT
21 & IMMIGRATION LAW PRACTICE, P.C.

22 8885 Rio San Diego Dr., Ste. 237

San Diego, California 92108

Telephone: (619) 923-4249

Facsimile: (619) 704-3971

1 /s/ Bethania Maria

2 (as authorized on 12/18/2025)

3 Bethania Maria* (CA SBN 219361)
4 bethaniamaria@bethaniamaria.com
5 Law Office of Bethania Maria
6 2018 9th Street
7 Sacramento, CA 95818
8 Telephone: (916) 441-4648
9 Facsimile: (916) 449-8080

10 * Application for admission to this Court
11 pending (Tracking Number
12 NBA-251216-001-4717).

13 *Attorneys for Petitioner J.S.*

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Bethania Maria, represent Petitioner J.S. and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Executed on December 18, 2025, in Sacramento, California.

/s/ Bethania Maria

(as authorized on 12/18/2025)

Bethania Maria* (CA SBN 219361)
bethaniamaria@bethaniamaria.com
Law Office of Bethania Maria
2018 9th Street
Sacramento, CA 95818
Telephone: (916) 441-4648
Facsimile: (916) 449-8080

* Application for admission to this Court pending (Tracking Number NBA-251216-001-4717).

Attorney for Petitioner J.S.

Eph 1

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: SAC2611000034

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: J [REDACTED] S [REDACTED] See Continuation Page Made a Part Hereof currently residing at:

[REDACTED] Bakersfield, CALIFORNIA [REDACTED]

(Number, street, city, state and ZIP code)

[REDACTED] (Area code and phone number)

- ☐ You are an arriving alien.
- ☒ You are an alien present in the United States who has not been admitted or paroled.
- ☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

10250 RANCHO RD, STE 201A ADELANTO, CALIFORNIA 923012237. ADELANTO DETENTION FAC. WEST

(Complete Address of Immigration Court, including Room Number, if any)

On November 19, 2025 at 1:30 pm to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

S 3299 FANG - SDDO

(Signature and Title of Issuing Officer)

Date November 7, 2025

Sacramento, CA

(City and State)

#32

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

Chris Medina 11030
(Signature and Title of Immigration Officer)

(Signature of Respondent)

Date: 11-7-25

Certificate of Service

This Notice To Appear was served on the respondent by me on November 7, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☒ in person ☐ by certified mail, return receipt # _____ requested ☐ by regular mail
- ☐ Attached is a credible fear worksheet.
- ☒ Attached is a list of organization and attorneys which provide free legal services

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

Chris Medina 11030
(Signature and Title of officer)

#33

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/oepl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name S [REDACTED] J [REDACTED]	File Number [REDACTED] Event No: SAC2611000034	Date 11/07/2025
ALSO KNOWN AS ----- [REDACTED]		
Signature S 3299 FANG 		Title SDDO

4 of 4 Pages



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ADELANTO IMMIGRATION COURT

Respondent Name:

S [REDACTED] J [REDACTED]

To:

Maria, Bethania

[REDACTED]
Sacramento, CA [REDACTED]

A-Number:

[REDACTED]

Riders:

In Custody Redetermination Proceedings

Date:

12/03/2025

ORDER OF THE IMMIGRATION JUDGE

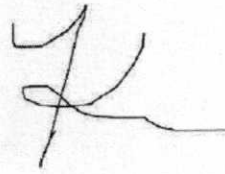
The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☒ Denied, because

Respondent is charged as a noncitizen present in the United States without having been inspected and admitted or paroled, see Notice to Appear (dated 11/07/2025), and he does not meaningfully argue otherwise. This Court, based on its independent assessment of relevant law, regulations, statutes, and caselaw, as part of the Executive Office for Immigration Review, Department of Justice, determines that it lacks jurisdiction over the request for custody redetermination. See Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025).

- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☐ released from custody under bond of \$
 - ☐ other:

☐ Other:



Immigration Judge: MULLINS, KATIE 12/03/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 01/02/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : S [REDACTED] J [REDACTED] | A-Number : [REDACTED]

Riders:

Date: 12/03/2025 By: RIVERA, SONIA, Court Staff



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ADELANTO IMMIGRATION COURT

Respondent Name:

S [REDACTED] J [REDACTED]

To:

Maria Bethania

[REDACTED]
Sacramento, CA [REDACTED]

A-Number:

[REDACTED]

Riders:

In Custody Redetermination Proceedings

Date:

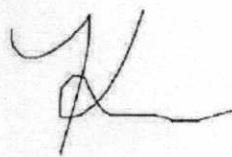
12/08/2025

ORDER OF THE IMMIGRATION JUDGE

☒ Respondent ☐ the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
☐ granted ☒ denied for the following reason(s):

- ☐ The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- ☐ The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- ☒ The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- ☐ Other:



Immigration Judge: MULLINS, KATIE 12/08/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 01/07/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : S [REDACTED] J [REDACTED] | A-Number : [REDACTED]

Riders:

Date: 12/08/2025 By: RIVERA, SONIA, Court Staff

NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT
10250 RANCHO RD., SUITE 201A
ADELANTO, CA 92301

RE: S [REDACTED] J [REDACTED]
FILE: [REDACTED]

DATE: Dec 10, 2025

TO: Law Office of Bethania Maria
Maria, Bethania
[REDACTED]
Sacramento, CA [REDACTED]

Please take notice that the above captioned case has been scheduled for a VIDEO hearing before the Immigration Judge on Feb 5, 2026 at 1:00 P.M.. The alien will be present via tele/video. All other parties and witnesses should report to:

425 GOLDEN STATE AVENUE
BAKERSFIELD, CA 90012

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is accredited to represent persons before an Immigration Judge. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that you or your attorney have been provided this notice and you are removable.

IN THE EVENT YOU ARE RELEASED FROM CUSTODY, WITHIN FIVE DAYS OF YOUR RELEASE, YOU MUST PROVIDE TO THIS IMMIGRATION COURT A WRITTEN NOTICE/EOIR-33 OF THE ADDRESS AND TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 304-625-2050.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [M] PERSONAL SERVICE [P] ELECTRONIC SERVICE [E]
TO: [] ALIEN [] ALIEN c/o Custodial Officer [E] ALIEN's ATT/REP [E] DHS
DATE: 12/10/2025 BY: COURT STAFF S. RIVERA
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] OTHER
VW

2025 WL 3012033

Only the Westlaw citation is currently available.

United States District Court, W.D.

Michigan, Southern Division.

Jose O. PUERTO-HERNANDEZ, Petitioner,

v.

Robert LYNCH et al., Respondents.

Case No. 1:25-cv-1097

I

Signed October 28, 2025

Synopsis

Background: Noncitizen detainee, a Honduran national, filed a § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE), Acting Director of ICE, and Secretary of Homeland Security, alleging noncitizen detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated the Immigration and Nationality Act (INA) and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief. Government filed motion to dismiss Acting Director of ICE and Secretary of Homeland Security as respondents.

Holdings: The District Court, Paul L. Maloney, J., held that:

[1] INA provision governing Attorney General's exclusive jurisdiction did not preclude district court's jurisdiction over claims of noncitizen detainee alleging his continued detention pending appeal under automatic stay of order by IJ for his release on bond violated INA and Due Process Clause of Fifth Amendment;

[2] INA provision governing Attorney General's exclusive jurisdiction precluded district court's jurisdiction over claims of noncitizen detainee seeking stay of removal from United States under Suspension Clause pending decision on his pending petition for Special Immigrant Juvenile (SIJ) Status;

[3] noncitizen detainee was not required to exhaust his administrative remedies before Board of Immigration Appeals (BIA) prior to bringing § 2241 habeas proceeding;

[4] INA provision governing discretionary detention of noncitizens already in United States pending outcome of

removal proceedings, and not INA provision governing mandatory detention of certain noncitizens seeking admission into United States, governs noncitizens who have resided in the United States and were already present within the United States without being admitted or paroled at the time they were apprehended;

[5] noncitizen detainee possessed cognizable private interest in his freedom from detention under Due Process Clause of Fifth Amendment;

[6] noncitizen detainee had substantial risk of erroneous deprivation of private interest in being free from detention; and

[7] interest of government in ensuring noncitizens' appearance at removal proceedings and preventing harms to community did not outweigh private interest of noncitizen detainee in being free from detention.

Petition granted in part and denied in part; motion to dismiss denied.

Procedural Posture(s): Petition for Writ of Habeas Corpus; Motion to Dismiss.

West Headnotes (30)

[1] Habeas Corpus

The Suspension Clause of the Constitution guarantees that the writ of habeas corpus is available to every individual detained within the United States, including challenges by noncitizens via § 2241 habeas petitions in immigration-related matters. U.S. Const. art. I, § 9, cl. 2; 28 U.S.C.A. § 2241.

[2] Aliens, Immigration, and Citizenship

The United States government is a carefully crafted system of checked and balanced power within each Branch that serves as the greatest security against tyranny — the accumulation of excessive authority in a single Branch; in keeping with this core principle, the writ of habeas corpus has served as a means of

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reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.

[3] **Aliens, Immigration, and Citizenship** ➡

INA provision governing Attorney General's exclusive jurisdiction limits—but does not wholly divest—district courts of jurisdiction to grant § 2241 habeas relief in the context of immigration-related proceedings.

■ 28 U.S.C.A. § 2241.

[4] **Aliens, Immigration, and Citizenship** ➡

INA provision governing Attorney General's exclusive jurisdiction did not preclude district court's jurisdiction over claims of noncitizen detainee, a Honduran national, alleging his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment in his § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE), Acting Director of ICE, and Secretary of Homeland Security seeking declaratory and injunctive relief; noncitizen detainee did not seek review of discretionary decision to commence proceedings, adjudicate a case, or execute a removal order, he rather sought writ of habeas corpus to challenge his continued detention without bond or constitutionally adequate process pursuant to mandatory detention policy, which fell outside of narrow scope of such INA provision and within district court's jurisdiction. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 236, 242, ■ 8 U.S.C.A. §§ 1226, 1252(g); ■ 28 U.S.C.A. § 2241; ■ 8 C.F.R. § 1003.19(i)(2).

[5] **Aliens, Immigration, and Citizenship** ➡

INA provision governing Attorney General's exclusive jurisdiction precluded district court's jurisdiction over claims of noncitizen detainee,

a Honduran national, seeking stay of removal from United States under Suspension Clause pending decision on his pending petition for Special Immigrant Juvenile (SIJ) Status, in his § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief; Suspension Clause, which applied only to core habeas claims seeking release from custody which fell within scope of habeas release when Constitution was drafted and ratified, did not apply to claims seeking relief from removal in immigration context. U.S. Const. art. I, § 9, cl. 2; U.S. Const. Amend. 5; Immigration and Nationality Act §§ 101, 236, 242, 245, ■ 8 U.S.C.A. §§ 1101(a)(27)(J), 1226, 1252(g), 1255(a), (h); ■ 28 U.S.C.A. § 2241; ■ 8 C.F.R. §§ 204.11(c), 1003.19(i)(2).

[6] **Aliens, Immigration, and Citizenship** ➡

If a petitioner for Special Immigrant Juvenile (SIJ) status is removed from the United States, he would lose all ability to continue to pursue his SIJ status petition under the INA. Immigration and Nationality Act § 101, ■ 8 U.S.C.A. § 1101(a)(27)(J)(i); ■ 8 C.F.R. § 204.11(c).

[7] **Constitutional Law** ➡

The Suspension Clause protects the rights of the detained by a means consistent with the essential design of the Constitution; it ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ of habeas corpus, to maintain the delicate balance of governance that is itself the surest safeguard of liberty. U.S. Const. art. I, § 9, cl. 2.

[8] **Habeas Corpus** ➡

In the face of otherwise valid jurisdiction-stripping statutes, the Suspension Clause ensures that habeas remains available to ensure that no branch of government detains a person in violation of law. U.S. Const. art. 1, § 9, cl. 2.

[9] **Habeas Corpus** ➡

To determine whether the Suspension Clause applies to make habeas relief available in the face of an otherwise valid jurisdiction-stripping statute, a district court first must determine whether a given § 2241 habeas petitioner is prohibited from invoking the Suspension Clause due to some attribute of the petitioner or to the circumstances surrounding his arrest or detention; then, if not, the court must turn to the question whether the substitute for habeas is adequate and effective to test the legality of the petitioner's detention (or removal). U.S. Const. art. 1, § 9, cl. 2; 28 U.S.C.A. § 2241.

[10] **Aliens, Immigration, and Citizenship** ➡

Where no applicable statute or rule mandates administrative exhaustion by a § 2241 habeas petition, whether to require exhaustion is within the district court's sound judicial discretion, which is referred to as "prudential" discretion, and such a court-made exhaustion rule must comply with statutory schemes and Congressional intent. 28 U.S.C.A. § 2241.

[11] **Administrative Law and Procedure** ➡

A district court may require prudential exhaustion when (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

[12] **Aliens, Immigration, and Citizenship** ➡

Noncitizen detainee, a Honduran national, was not required to exhaust his administrative remedies before Board of Immigration Appeals (BIA) prior to bringing § 2241 habeas proceeding against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause and seeking declaratory and injunctive relief; issue presented was legal question of statutory interpretation and did not require record that would be developed if exhaustion was required, court was not bound by or required to give deference to agency interpretation of statute, BIA could not review due process challenge, and it was implausible BIA would change position on scope of INA provision governing mandatory detention of noncitizens seeking admission to United States, precluding meaningful review. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 235, 236, 242, 8 U.S.C.A. §§ 1225, 1226, 1252(g); 28 U.S.C.A. § 2241; 8 C.F.R. § 1003.19(i)(2).

[13] **Aliens, Immigration, and Citizenship** ➡

Both INA provision governing mandatory detention of certain noncitizens seeking admission into United States and INA provision governing discretionary detention of noncitizens already in United States govern detention of noncitizens pending removal proceedings; the critical difference is that the former provides for mandatory detention, while the latter allows for the release of the noncitizen on conditional parole or bond. Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226.

[14] **Statutes** ➡

A statute should be construed so that effect is given to all its provisions.

[15] Statutes ➡

When engaging in statutory interpretation, a district court's inquiry begins with the statutory text, and ends there as well if the text is unambiguous.

[16] Statutes ➡

Statutory ambiguity is not determined by examining provisions in isolation; rather, the meaning, or ambiguity, of certain words or phrases may only become evident when placed in context.

[17] Statutes ➡

The words of a statute must be read in their context and with a view to their place in the overall statutory scheme.

[18] Statutes ➡

A district court must use every tool at its disposal to determine the best reading of the statute.

[19] Aliens, Immigration, and Citizenship ➡

INA provision governing discretionary detention of noncitizens already in United States pending outcome of removal proceedings, and not INA provision governing mandatory detention of certain noncitizens seeking admission into United States, governs noncitizens who have resided in the United States and were already present within the United States without being admitted or paroled at the time they were apprehended. Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226.

[20] Statutes ➡

Although the terms of a statute may seem unambiguous when viewed in isolation, context matters.

[21] Statutes ➡

District courts are instructed to construe statutes, not isolated provisions.

[22] Constitutional Law ➡

Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that the Due Process Clause protects. U.S. Const. Amend. 5.

[23] Aliens, Immigration, and Citizenship ➡

The Fifth Amendment's due process clause extends to all persons, regardless of status, including noncitizens. U.S. Const. Amend. 5.

[24] Constitutional Law ➡

To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, district courts apply the balancing test set forth in Mathews v. Eldridge, which requires consideration of the following three factors: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail. U.S. Const. Amend. 5.

[25] Aliens, Immigration, and Citizenship ➡

Noncitizen detainee, a Honduran national, possessed cognizable private interest in his freedom from detention under Due Process Clause of Fifth Amendment, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated his procedural due process rights under Fifth Amendment; freedom from detention was one of most elemental of liberty interests,

conditions of detainee's confinement did not differ in any material way from criminal incarceration, such that he experienced many of deprivations of incarceration, including loss of contact with friends and family, loss of income earning, lack of privacy, and, most fundamentally, lack of freedom of movement, and invoked automatic stay did not have a certain end date. U.S. Const. Amend. 5; 8 C.F.R. §§ 1003.6(c)(5), (d), 1003.19.

[26] **Aliens, Immigration, and Citizenship** ➡

Noncitizen detainee, a Honduran national, had substantial risk of erroneous deprivation of private interest in being free from detention, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated his procedural due process rights under Fifth Amendment; IJ reviewed testimony and evidence at bond hearing that detainee was 18-year-old recent high school graduate who lived at home with his mother, had strong ties to his community, and had no criminal record, IJ made independent decision that detainee was eligible for release from custody under bond of \$5,000, under automatic stay provision, decision of IJ was entirely inconsequential, nothing more than an empty gesture, and automatic stay provision stripped process of any impartiality, allowing government to act both as prosecution and judge in making a unilateral and unreviewed decision as to detention. U.S. Const. Amend. 5; 8 C.F.R. § 1003.19.

[27] **Aliens, Immigration, and Citizenship** ➡

Interest of Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials in ensuring noncitizens' appearance at removal proceedings and preventing harms to community did not outweigh private interest of noncitizen detainee, a Honduran national, in being free from detention, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ)

for his release on bond violated his procedural due process rights under Fifth Amendment; government made only highly speculative arguments regarding detainee's risk of flight, continuing to enforce his detention would likely impose more costs upon government via continued funding and oversight of his detention, and government's interests were adequately protected by alternative mechanism in place under INA allowing it to seek a stay before Board of Immigration Appeals (BIA) based on individualized assessment. U.S. Const. Amend. 5; 8 C.F.R. § 1003.19(i)(1).

[28] **Aliens, Immigration, and Citizenship** ➡

District court would decline to dismiss Acting Director of Immigration and Customs Enforcement (ICE) and Secretary of Homeland Security from § 2241 habeas proceedings brought by noncitizen detainee, a Honduran national, against Director of Detroit Field Office of ICE, Acting Director of ICE, and Secretary of Homeland Security, alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief; although noncitizen detainee named Director of Detroit Field Office of ICE as a respondent and as detainee's immediate custodian, presence of Acting Director of ICE and Secretary of Homeland Security in action ensured that government maintained authority to enforce district court's grant of habeas relief in the event of a transfer. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226; 28 U.S.C.A. § 2241; 8 C.F.R. § 1003.19(i)(2).

[29] **Habeas Corpus** ➡

The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.

[30] **Habeas Corpus** ➡

Read literally, the language of statutory provision governing power to grant writ of habeas corpus requires nothing more than that the district court issuing the writ have jurisdiction over the custodian; so long as the custodian can be reached by service of process, the court can issue a writ within its jurisdiction requiring that the prisoner be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the prisoner himself is confined outside the court's territorial jurisdiction.  28 U.S.C.A. § 2241(a).

West Codenotes

Unconstitutional as Applied

 8 C.F.R. § 1003.19(i)(2)

Attorneys and Law Firms

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Kalen Hart Pruss, DOJ-United States Attorney's Office, Grand Rapids, MI, for Respondents.

OPINION

Paul L. Maloney, United States District Judge

*1 This is a habeas corpus action pursuant to  28 U.S.C. § 2241. It involves the continued detention of a noncitizen pending appeal under an automatic stay of an order for his release on conditions imposed by an immigration judge (IJ) after hearing.

Petitioner Jose O. Puerto-Hernandez is detained by the United States Immigration and Customs Enforcement (ICE) at the North Lake Processing Center (North Lake) in Baldwin, Lake County, Michigan. In his verified petition for writ of habeas corpus and complaint for declaratory and injunctive relief (Pet., ECF No. 1), Petitioner challenges

the lawfulness of his detention and asks the Court for the following relief: to issue a writ of habeas corpus ordering Respondents to release Petitioner on bond or to show cause as to why Petitioner should remain detained pursuant to the United States Department of Homeland Security's appeal based solely upon the July 8, 2025, mandatory detention policy memorandum; issue a writ of habeas corpus directing Respondents to pursue a constitutionally adequate process to justify adverse immigration actions against the Petitioner; enjoin Respondents from removing Petitioner from the United States pending the resolution of this case; declare the process as applied to Petitioner by Respondents violates the Due Process Clause of the Fifth Amendment, the INA, the Administrative Procedures Act, and federal regulations; declare that Petitioner may remain in the United States pending adjudication of his self-petition for Special Immigrant Juvenile classification and subsequently pursue adjustment of status upon approval; stay Petitioner's removal from the United States until he exhausts the process, successfully or otherwise, of pursuing relief from removal by virtue of the Special Immigrant Juvenile Status and parole into the country for purposes of adjustment; and to award attorneys' fees and costs for this action. (Pet., ECF No. 1, PageID.41–42.)

On September 29, 2025, the Court entered an order (ECF No. 3) pursuant to 28 U.S.C. § 2243, directing Respondents to show cause as to why the writ of habeas corpus and other relief requested in the petition should not be granted, and directing Petitioner to file a reply. The parties complied, and this matter is before the Court for consideration. For the reasons stated below, the Court will grant Petitioner's petition for writ of habeas corpus, in part, and order Respondents to release Petitioner on bond under the terms set by the IJ. The Court will deny the remainder of the petition as the Court lacks jurisdiction under the INA, § 1252(g), to grant the requested relief.

Discussion

I. Factual Background

The facts of this case are not in dispute. Petitioner is an 18-year-old citizen and national of Honduras, who entered the United States unlawfully with his mother as a child in June of 2019. (Pet., ECF No. 1, PageID.11–12.) United States Border Patrol encountered Petitioner and his mother upon their entry into the United States and served them with Notices to Appear, charging them with inadmissibility

under the Immigration and Nationality Act (INA), but the United States Department of Homeland Security did not file the notices with an immigration court. (Resp., ECF No. 4, PageID.133.)

*2 On August 21, 2024, a New Jersey Superior Court adjudicated Petitioner abandoned and neglected by his father and concluded that it would not be in Petitioner's best interests to return to Honduras. (Pet., ECF No. 1, PageID.12.) On July 9, 2025, Petitioner filed an application for Special Immigrant Juvenile (SIJ) status. (*Id.*; ECF No. 4-2, PageID.170–188.) His petition for SIJ status remains pending. (Pet., ECF No. 1, PageID.3.)

On August 13, 2025, United States Immigration and Customs Enforcement (ICE) stopped Petitioner and arrested and detained him. (*Id.*, PageID.6.) Petitioner is charged with having entered the United States without inspection or parole and not being in possession of a valid immigration document of identity or nationality at the time of apprehension. (*Id.*, PageID.7.) At the time of his arrest, Petitioner had no criminal record or pre-existing orders of removal. (*Id.*, PageID.6.)

On August 15, 2025, Petitioner filed a motion for bond determination before the Elizabeth Immigration Court. (Resp. ECF No. 4, PageID.133.) And, on August 20, 2025, Petitioner filed a second petition for SIJ status, indicating that he was in removal proceedings. (*Id.*, PageID.134; ECF No. 4-3, PageID.190–218.) On August 26, 2025, the Elizabeth Immigration Court held a hearing and granted Petitioner's request for bond (*id.*), ordering that Petitioner be released from custody under bond of \$5,000. (Immigration Court Ord., ECF No. 1-2, PageID.45 (Bond Order).)

DHS subsequently filed a notice of intent to appeal custody redetermination, invoking the automatic stay provided for in 8 C.F.R. § 1003.19(i)(2), which has kept Petitioner in ICE custody. (Resp., ECF No. 4 PageID.133; ECF No. 1-6, PageID.89.) DHS filed its appeal with the Board of Immigration Appeals (BIA) on September 9, 2025. (ECF No. 1-6, PageID.57–86.)

On September 17, 2025, Petitioner filed his verified petition for writ of habeas corpus and complaint for declaratory and injunctive relief. (Pet., ECF No. 1.) Petitioner names as Respondents Field Office Director of the Detroit Field Office of ICE Robert Lynch, Acting Director of ICE Todd Lyons, and United States Secretary of Homeland Security Kristi Noem. (*Id.*, PageID.12.)

On September 18, 2025, ICE served Petitioner with a notice to appear, charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i)(I). (Resp., ECF No. 4, PageID.134.) Petitioner is currently scheduled to appear before the Detroit Immigration Court on October 27, 2025. (*Id.*, PageID.135.)

II. Habeas Corpus Legal Standard

[1] The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” Hamdi v. Rumsfeld, 542 U.S. 507, 525, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004) (citing U.S. Const., Art I, § 9, cl. 2). The primary habeas corpus statute, 28 U.S.C. § 2241, confers upon the federal courts the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties of the United States.” This includes challenges by non-citizens in immigration related matters. Zadvydas v. Davis, 533 U.S. 678, 687, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

III. Jurisdiction

In the September 29, 2025, order to show cause, the Court requested that the parties address the threshold question of the Court's jurisdiction to grant the requested relief. (Ord., ECF No. 3, PageID.130.) Respondents argue that the commencement of removal proceedings by noncitizens who have applied for but have not yet received SIJ status is not reviewable in habeas. (Resp., ECF No. 1, PageID.154–55.) They do not challenge this Court's jurisdiction as it relates to all immigration-related matters but cite 8 U.S.C. § 1252(g) for the proposition that federal courts lack “jurisdiction to review the commencement and adjudication of removal proceedings.” (*Id.*) Petitioner contends that, while § 1252(g) may preclude the Court from terminating removal proceedings generally, it poses no bar to Petitioner's request for release from detention pursuant to the bond order of the IJ during the pendency of his removal proceedings. (Reply, ECF No. 5, PageID.236.)

*3 The central question here is whether the Court may exercise jurisdiction over Petitioner's claims. For the following reasons, the Court finds that § 1252(g) does not preclude the Court's review of Petitioner's § 2241 petition to the extent that it requests release from detention, but that

the Court lacks jurisdiction to consider Petitioner's remaining claims.

[2] The United States government is a “carefully crafted system of checked and balanced power within each Branch” that serves as the “greatest security against tyranny — the accumulation of excessive authority in a single Branch.”

Mistretta v. United States, 488 U.S. 361, 381, 109 S.Ct. 647, 102 L.Ed.2d 714 (1989). In keeping with this core principle, “the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001). This includes in the course of immigration proceedings.

Before and after the enactment in 1875 of the first statute regulating immigration, 18 Stat. 477, [federal habeas corpus] jurisdiction was regularly invoked on behalf of noncitizens, particularly in the immigration context.... In case after case, courts answered questions of law in habeas corpus proceedings brought by aliens challenging Executive interpretations of the immigration laws.

Id. at 305–07, 121 S.Ct. 2271 (alteration in original). See also, e.g., *Demore v. Kim*, 538 U.S. 510, 517, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (holding that § 1226(e) of the INA limiting judicial review of the Attorney General's discretionary judgments regarding detention and release did not preclude the Court of jurisdiction to grant habeas relief in the context of a challenge to detention under the no-bail provision of the INA); *Zadvydas*, 533 U.S. at 688, 121 S.Ct. 2491 (holding that “§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention” under the INA).

Against this historical backdrop of the use of habeas corpus to review unlawful detention in immigration proceedings,

Respondents argue that this case falls outside of the scope of the writ under common law. They contend that Petitioner's claim for relief stems from the commencement of removal proceedings and that the scope of habeas review in cases such as Petitioner's has been limited by Congress under 8 U.S.C. § 1252(g).

[3] Enacted in 1996, § 1252 governs “judicial review” of orders of removal. Subsection (g) provides:

[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, ... no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g). This statute limits—but does not wholly divest—courts of jurisdiction to grant habeas relief in the context of immigration-related proceedings.

The Supreme Court, in *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999), first examined the scope of § 1252(g) in an action seeking declaratory and injunctive relief against the Attorney General and others related to deportation actions. *Id.* at 473–74, 119 S.Ct. 936. Finding that the newly enacted § 1252 divested the Court of jurisdiction to hear the challenges posed by the respondents, the Court nonetheless rejected the approach advanced by Respondents here. It cautioned that § 1252 does not cover “the universe of deportation claims,” but is much narrower: “The provision applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’ ” *Id.* at 482, 119 S.Ct. 936. The Court explained that it would be

"implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings." *Id.*; see also *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 140 S. Ct. 1891, 1907, 207 L.Ed.2d 353 (2020) (reaffirming the "narrow" nature of § 1252(g), and holding that § 1252(g) did not bar an action challenging the rescission of Deferred Action for Childhood Arrivals (DACA), which was "not a decision to 'commence proceedings,' much less to 'adjudicate' a case or 'execute' a removal order.").

*4 Later, in *Jennings v. Rodriguez*, 583 U.S. 281, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018), a majority of the Court explicitly rejected the notion that a habeas challenge to continued detention falls within the scope of § 1252(g): "The concurrence contends that 'detention is an 'action taken ... to remove' an alien' and that therefore 'even the narrowest reading of 'arising from' must cover' the claims raised by respondents. We do not follow this logic." *Id.* at 295, 138 S.Ct. 830 n.3 (quoting Thomas, J., concurring in part and concurring in judgment). And when faced with this issue, lower courts have overwhelmingly agreed that courts have jurisdiction to entertain habeas challenges to the legality of a noncitizen's detention. See, e.g., *Eliseo v. Olson*, No. 25-3381, 2025 WL 2886729, at *5 (D. Minn. Oct. 8, 2025) (citing, *inter alia*, *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)); *Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *3 (C.D. Cal. Sept. 8, 2025); *Kostak v. Trump*, No. 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, --- F.Supp.3d ---, ---, 2025 WL 2430025, at 5-7 (D. Md. Aug. 24, 2025); *Espinoza, et al. v. Kaiser, et al.*, No. 1:25-cv-01101 JLT SKO, 2025 WL 2675785, at *9 (E.D. Cal. Sep. 18, 2025); See also *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that § 1252(g) does not bar a habeas claim of "illegal detention" as it is "plainly collateral to ICE's prosecutorial decision to execute Kong's removal"); *Mustata v. U.S. Dep't of Just.*, 179 F.3d 1017, 1019 (6th Cir. 1999) ("We conclude that § 8 U.S.C. § 1252(g) does not eliminate jurisdiction over the Mustatas' § 28 U.S.C. § 2241 habeas petition."); *Requena-Rodriguez v. Pasquarell*, 190

F.3d 299, 304 (5th Cir. 1999) (holding that § 1252(g) does not bar a habeas review and noting that the Fourth, Sixth, Eighth, Tenth, and Eleventh Circuits have all held the same).

[4] Here too, Petitioner's action requesting a writ of habeas corpus ordering Respondents to release Petitioner on bond does not seek the review of a discretionary decision to "commence proceedings," "adjudicate" a case, or "execute" a removal order. Petitioner seeks a writ of habeas corpus to challenge his continued detention without bond or "constitutionally adequate process" pursuant to the mandatory detention policy. This action falls outside of the narrow scope of § 1252(g) and within this Court's jurisdiction.

[5] Petitioner also asks this Court to declare that he may remain in the United States and to stay his removal from the United States pending a decision on his pending petitions for SIJ status. As discussed above, Respondents argue that § 1252(g) strips the Court of jurisdiction to consider Petitioner's claims, which undoubtedly relate to removal. However, Petitioner invokes the Suspension Clause of the United States Constitution, also known as the Great Writ, as an independent basis for habeas corpus. (Reply, ECF No. 5, PageID.235.)

Petitioner places great emphasis on his pending application for SIJ status. In 1990, Congress established SIJ status "to protect abused, neglected or abandoned children who, with their families, illegally entered the United States, and it entrusted the review of SIJ petitions to USCIS, a component of [the Department of Homeland Security]." *Osorio-Martinez v. Attorney Gen. United States of Am.*, 893 F.3d 153, 163 (3d Cir. 2018) (internal quotation marks and citations omitted). SIJ status provides a pathway to lawful permanent residency: once a juvenile immigrant's SIJ petition is approved, the juvenile immigrant may then apply to adjust their status to lawful permanent resident. § 8 U.S.C. § 1255(a), (h).

To qualify for SIJ status, the immigrant must be a person:

- (i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United

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States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

*5 (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status ...

R.F.M. v. Nielsen, 365 F. Supp. 3d 350, 361–62 (S.D.N.Y. 2019) (quoting 8 U.S.C. § 1101(a)(27)(J)). Under the SIJ statute, “juvenile” includes individuals up to age 21. *Id.* (citing 8 C.F.R. § 204.11(c)(1)).

[6] Petitioner is under 21 years old, and it is undisputed that he has satisfied the first and second requirements of the statute; all that remains is for consideration and possible consent by the USCIS, as delegate of the Secretary of Homeland Security. Importantly, however, to qualify for SIJ status, applicants must also be physically present in the United States. 8 U.S.C. § 1101(a)(27)(J)(i); 8 C.F.R. § 204.11(c). Thus, should Petitioner be removed from the United States, he would lose all ability to continue to pursue his SIJ status petition. This appears to be the basis for Petitioner's invocation of the Suspension Clause.

[7] [8] The Suspension Clause forbids suspension of the writ of habeas corpus “unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const. Art. I, § 9, cl. 2. As the Court explained in *Boumediene v. Bush*, 553 U.S. 723, 128 S.Ct. 2229, 171 L.Ed.2d 41 (2008):

The Clause protects the rights of the detained by a means consistent with the essential design of the Constitution. It ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ, to maintain the ‘delicate balance of governance’ that is itself the surest safeguard of liberty.

Id. at 745, 128 S.Ct. 2229. This includes in the face of otherwise valid jurisdiction stripping statutes where the Suspension Clause ensures that “[h]abeas remains available to ensure that no branch of government detains a person in violation of law. See *Boumediene*, 553 U.S. at 765, 128 S.Ct. 2229 (“[T]he writ ... is itself an indispensable mechanism for monitoring the separation of powers.”).” *Eliseo*, 2025 WL 2886729 at *6.

[9] The *Boumediene* Court set forth a two-part inquiry for determining whether the Suspension Clause applies to make habeas relief available in the face of an otherwise valid jurisdiction-stripping statute: (1) the Court must “determine whether a given habeas petitioner is prohibited from invoking the Suspension Clause due to some attribute of the petitioner or to the circumstances surrounding his arrest or detention.” *Osorio-Martinez*, 893 F.3d at 166 (internal quotation marks and citations omitted). “Then, if the petitioner is not prohibited from invoking the Suspension Clause, [this Court must] turn to the question whether the substitute for habeas is adequate and effective to test the legality of the petitioner's detention (or removal).” *Id.*

Despite the Court's inclination to find that Petitioner has satisfied each of the foregoing questions, the Suspension Clause nonetheless does not apply. The Court in *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020), clarified that the Suspension Clause applies only to those “core” habeas claims seeking release from custody, which fell within the scope of habeas release “when the Constitution was drafted and ratified.” *Id.* at 108, 140 S.Ct. 1959. It does not include claims seeking relief from removal in the immigration context. *Id.* at 119, 140 S.Ct. 1959. Accordingly, in keeping with *Thuraissigiam*, the Court finds that the Suspension Clause does not apply here and, therefore, § 1252(g) precludes the Court's jurisdiction over Petitioner's claims seeking a stay of his removal. The Court will therefore dismiss the remainder of the petition because it lacks jurisdiction over Petitioner's claims which do not seek release from detention.

IV. Exhaustion

*6 Respondents contend that this Court should deny Petitioner's request for habeas corpus relief because Petitioner has not exhausted his administrative remedies. (Resp., ECF No. 4, PageID.132.) Specifically, Respondents argue that Petitioner should first pursue his claims of wrongful detention before the BIA. (*Id.*, PageID.136.) In response, Petitioner argues that there is no precedent requiring exhaustion in cases like this (Reply, ECF No. 5, PageID.236) and requiring Petitioner to first pursue his appeal before the BIA would result in irreparable injury in the face of continued illegal detention and would be futile given the BIA's position articulated in *Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025) (*id.*, PageID.237). The Court agrees that exhaustion is not mandatory and finds that it will not require exhaustion here.

[10] [11] First, the parties appear to agree that no applicable statute or rule mandates administrative exhaustion by Petitioner. Thus, whether to require exhaustion is within this Court's "sound judicial discretion." See *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145, 112 S.Ct. 1081, 117 L.Ed.2d 291 (1992)) (internal quotation marks omitted). This discretion is referred to as "prudential" exhaustion, *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019), and such a court-made exhaustion rule must comply with statutory schemes and Congressional intent, *Shearson*, 725 F.3d at 593–94. Notably, the United States Court of Appeals for the Sixth Circuit has not yet decided "whether courts should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention." See *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (citing *Hernandez v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-1621, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025)). However, as Respondents note (Resp., ECF No. 4, PageID.136), courts within the Sixth Circuit "have applied the three-factor test, set forth in *United States v. California Care Corp.*, 709 F.2d 1241 (9th Cir. 1983), to determine whether prudential exhaustion should be required." See *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, — F.Supp.3d —, —, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025). Under that authority,

courts may require prudential exhaustion when:

- (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision;
- (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and
- (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Id. (citing *Shweika v. Dep't of Homeland Sec.*, No. 1:06-cv-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015)).

[12] Upon consideration of those factors, this Court concludes that prudential exhaustion should not be required in this case. First, the central question presented by Petitioner's *§* 2241 petition is whether *§* 8 U.S.C. *§* 1225 or *§* 8 U.S.C. *§* 1226 applies to Petitioner. That determination relies upon a purely legal question of statutory interpretation and does not require the record that would be developed should the Court require Petitioner to exhaust his administrative remedies. Moreover, this Court is not bound by and is not required to give deference to any agency interpretation of a statute. See *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024) (noting that "courts need not and under the [Administrative Procedure Act (APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous.").

Second, Petitioner's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. See *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006).

*7 And third, administrative review is not likely to allow the agency to correct its own mistakes and to preclude the need for judicial review if Petitioner is successful. It is Petitioner's position that he is detained under *§* 1226, rather than *§* 1225, and that the automatic stay violates Petitioner's right to due process. However, the BIA recently proclaimed that *any* individual who has ever entered the United States unlawfully and was later detained is no longer eligible for bond and is subject to mandatory detention under *§* 1225(b)(2)(A).

See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (BIA 2025). It is simply implausible that the BIA would change its position, regardless of the arguments set forth in this particular case, thus precluding meaningful review.

Accordingly, for the foregoing reasons, this Court concludes that each of the three factors weigh against requiring exhaustion in this case. Therefore, prudential exhaustion is not required.

V. Merits Discussion

A. Petitioner's Detention Is Governed by § 1226.

Petitioner contends that Respondents have violated the INA by concluding that Petitioner is detained pursuant to the mandatory detention provisions set forth in § 8 U.S.C. § 1225(b)(2). (Pet., ECF No. 1, PageID.8–9.) According to Petitioner, noncitizens who “are charged as inadmissible for having entered the United States without inspection and who have resided in the United States for more than two years” are detained pursuant to § 8 U.S.C. § 1226(a). (*Id.*, PageID.9.) Respondents, however, contend that Petitioner “unambiguously meets every element for detention under § 1225(b)(2),” and that “even if the text of § 1225(b)(2) were ambiguous, its structure and history support the agency's interpretation of the statute.” (ECF No. 4, PageID.137.) To address the Parties’ arguments, the Court must examine the two primary statutory provisions at play: § 8 U.S.C. § 1225 and § 1226.

Section 1225(b)(2)(a) provides that

in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title

§ 8 U.S.C. § 1225(b)(2)(a).

Section 1226(a), on the other hand, “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 289, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018). It states:

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) ¹ and pending such decision, the Attorney General

(1) may continue to detain the arrested alien; and

(2) may release the alien on

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole ...

§ 8 U.S.C. § 1226(a).

[13] In sum, both provisions govern the detention of noncitizens pending removal proceedings; the critical difference is that § 1225 provides for mandatory detention, while § 1226 allows for the release of the noncitizen on conditional parole or bond. For the following reasons, the Court finds that Petitioner's detention is governed by § 1226.

Respondents contend that Petitioner is detained pursuant to § 1225 because he is an applicant for admission, seeking admission, and who is not clearly and beyond a doubt entitled to be admitted. (Resp., ECF No. 4, PageID.138.) Respondents further argue that any “unadmitted” noncitizen is an “applicant[] for admission” regardless of their proximity to the border, the length of time they have been present in the United States, or whether they ever had the subjective intent to properly apply for admission.” (*Id.*) They explain that the INA defines “admission” and “admitted” as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” (*Id.* (quoting § 8 U.S.C. § 1101(a)(13))).

*8 Petitioner claims that “§ 1226(a) applies to noncitizens without lawful status who are arrested within the country” and “sets forth ‘the default rule’ for detaining noncitizens ‘already present in the United States.’ ” (Reply, ECF No. 5, PageID.238–39 (quoting *Jennings*, 583 U.S. at 303, 138 S.Ct. 830)).

[14] [15] [16] [17] [18] To address the parties’ arguments, this Court must engage in principles of statutory interpretation. “A statute should be construed so that effect is given to all its provisions.” *Corley v. United States*, 556 U.S. 303, 314, 129 S.Ct. 1558, 173 L.Ed.2d 443 (2009); see also *Kentucky v. Biden*, 23 F.4th 585, 603 (6th Cir. 2022) (noting how courts “must give effect to the clear meaning of statutes as written”). When engaging in statutory interpretation, the Court’s “inquiry ‘begins with the statutory text, and ends there as well if the text is unambiguous.’ ” See *In re Vill. Apothecary, Inc.*, 45 F.4th 940, 947 (6th Cir. 2022) (quoting *Binno v. Am. Bar Ass’n*, 826 F.3d 338, 346 (6th Cir. 2016)). However, ambiguity is not determined by examining provisions in isolation. “[T]he ‘meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.’ ” *Id.* (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000)). “The words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101, 132 S.Ct. 1350, 182 L.Ed.2d 341 (2012). This Court must also “use every tool at [its] disposal to determine the best reading of the statute.” *Raimondo*, 603 U.S. at 400, 144 S.Ct. 2244. Examining the statute as a whole, in line with the guiding principles of statutory construction, this Court agrees with the numerous other courts in the country that have concluded that Respondents’ interpretation of the statute is simply much too broad.

[19] The text of § 1225(b)(2)(A) provides for the detention of an “alien seeking admission” after an “examining immigration officer” determines that the alien “is not clearly and beyond a doubt entitled to be admitted.” An “applicant for admission” is defined as “[a]n alien present in the United States who has not been admitted or who arrives in the United States.” See *id.* § 1225(a)(1). The INA further defines “admission” and “admitted” as “the lawful entry of the alien into the United States after inspection and authorization by an

immigration officer.” See 8 U.S.C. § 1101(a)(13). At issue is whether “an alien present in the United States who has not been admitted” includes individuals like Petitioner who have been present in the United States for years, but who did not enter lawfully.

[20] Although the terms of § 1225 may seem ambiguous when viewed in isolation, context matters.

Yates v. United States, 574 U.S. 528, 537, 135 S.Ct. 1074, 191 L.Ed.2d 64 (2015) (emphasizing the importance of context even when a statutory term is unambiguous).

Section 1225 is titled, “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” A title, such as this “is especially valuable [where] it reinforces what the text’s nouns and verbs independently suggest.” *Yates*, 574 U.S. at 552, 135 S.Ct. 1074 (Alito, J., concurring in judgment). Congress’ decision to include the word “arriving,” as well as the decision to include references to methods of physical arrival, such as “stowaways” and as “crewmen” evidences an intent to address noncitizens coming to the United States—whether on one side of the border or the other—and who are presently “seeking admission” into the United States. *Pizarro Reyes*, 2025 WL 2609425, at *5 (citing to *Dubin v. United States*, 599 U.S. 110, 118, 143 S.Ct. 1557, 216 L.Ed.2d 136 (2023)).

*9 [21] But more importantly, Respondents’ interpretation urges this Court to turn a blind eye to the remainder of the statutory scheme. Courts are instructed to “construe statutes, not isolated provisions.” *King v. Burwell*, 576 U.S. 473, 486, 135 S.Ct. 2480, 192 L.Ed.2d 483 (2015). Whereas § 1225 governs the treatment of “arriving aliens,” § 1226 is much broader, referring to all other aliens not lawfully present but not arriving. To read § 1226 otherwise would ignore recent amendments to § 1226 and render Congress’ recent actions entirely superfluous, a result that this Court has long been instructed to avoid. *TRW Inc. v. Andrews*, 534 U.S. 19, 31, 122 S.Ct. 441, 151 L.Ed.2d 339 (2001) (“It is ‘a cardinal principle of statutory construction’ that a ‘statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.’ ” (quoting *Duncan v. Walker*, 533 U.S. 167, 174, 121 S.Ct. 2120, 150 L.Ed.2d 251 (2001))).

Just this year, Congress enacted the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), which amended § 1226 to prescribe a subset of noncitizens who are exempt from the discretionary bond analysis. Specifically, the Act added a subsection that explicitly mandates detention for those noncitizens who are inadmissible under §§ 1182(a)(6)(A), 1182(a)(6)(C), and 1182(a)(7), and who have been arrested for, charged with, or convicted of certain crimes. See § 1226(c)(1)(E). Notably, § 1182(a)(6)(A) refers to “[a]n alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General ...”, in other words, someone like Petitioner. If all individuals like Petitioner, “present in the United States without being admitted or paroled,” were already subject to mandatory detention under § 1225, then there would have been no need for Congress to amend the INA to provide for mandatory detention of individuals who were “present in the United States without being admitted or paroled” and who were arrested, charged with, or committed certain crimes. Quite simply, were the Court to agree with Respondents’ interpretation of §§ 1225 and 1226, the Court would be nullifying Congress’s intent and rendering § 1226(c)(1)(E) entirely superfluous.

Considering the foregoing, the Court concludes that § 1226(a), and not § 1225(b)(2)(A), governs noncitizens, such as Petitioner, who have resided in the United States and were already present within the United States without being admitted or paroled at the time that they were apprehended.² Therefore, the Court will examine the impact of the automatic stay on Petitioner’s Fifth Amendment due process rights.

**B. The Automatic Stay Under 8 C.F.R. § 1003.19(i)
(2) Violates Petitioner’s Fifth Amendment Due Process Rights**

*10 [22] [23] The Supreme Court has held that “[o]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 682, 121 S.Ct. 2491. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very

liberty that [the Due Process Clause] protects.” *Id.* at 690, 121 S.Ct. 2491. The Fifth Amendment’s Due Process Clause extends to all persons, regardless of status. See *A.A.R.P. v. Trump*, 605 U.S. 91, 94, 145 S.Ct. 1364, 221 L.Ed.2d 765 (2025). This includes noncitizens, like Petitioner. See *id.*; see also *United States v. Verdugo-Urquidez*, 494 U.S. 259, 269, 110 S.Ct. 1056, 108 L.Ed.2d 222 (1990); *Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *4 (6th Cir. Jan. 18, 2023).

[24] To determine whether a civil detention violates a detainee’s Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Mathews v. Eldridge* test in the context of immigration). *Mathews v. Eldridge* requires a court to consider the following three factors: “(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures entail.” See *Lopez-Campos*, — F.Supp.3d at —, 2025 WL 2496379, at *9 (citing *Mathews*, 424 U.S. at 335, 96 S.Ct. 893).

1. Private Interest

[25] There is no dispute that Petitioner has a significant private interest in avoiding detention, as one of the “most elemental of liberty interests” is to be free from detention. See *Hamdi*, 542 U.S. at 529, 124 S.Ct. 2633. The Court may also consider Petitioner’s conditions of confinement, i.e., “whether a detainee is held in conditions indistinguishable from criminal incarceration.” See *Günaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Respondents do not claim that the conditions of Petitioner’s confinement at North Lake differ in any material way from criminal incarceration. Petitioner is now detained at a facility that is halfway across the country from his mother and community; there can be no doubt that he is “experiencing

[many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, ... lack of privacy, and, most fundamentally, the lack of freedom of movement.” See *Günaydin*, 784 F.Supp.3d at 1187.

It is worth noting that, while Respondents represent that Petitioner's case is presently set for hearing, the invoked automatic stay does not have a certain end date. “If the BIA does not resolve the appeal within the ninety-day period, ICE can seek a discretionary stay for an additional 30 days.”

Sampiao v. Hyde, No. 1:25-cv-11981-JEK, — F.Supp.3d —, —, 2025 WL 2607924, at *10 (D. Mass. Sept. 9, 2025) (citing 8 C.F.R. § 1003.6(c)(5)). The matter can also be referred to the Attorney General, who can stay the case indefinitely pending disposition. 8 C.F.R. § 1003.6(d) (emphasis added). Therefore, the “private interest” factors strongly weighs in favor of Petitioner.

2. Risk of Error

[26] Given the nature of the automatic stay, the risk of error is high. Under the automatic stay, *only* noncitizens who have already prevailed in a judicial bond hearing are subject to continued detention without any individualized assessment.

*11 Here, the IJ, acting as an impartial decision-maker, reviewed the testimony and evidence presented at the bond hearing that Petitioner is an 18-year-old recent high school graduate who lives at home with his mother, has strong ties to his community, and has no criminal record. (ECF No. 1-8, PageID.93–126.) Based upon the evidence presented, the IJ made an independent decision that Petitioner was eligible for release from custody under bond of \$5,000. (ECF No. 1-6, PageID.87.) Under the automatic stay provision, that decision of the IJ is entirely inconsequential, nothing more than an “empty gesture.” See *Ashley v. Ridge*, 288 F. Supp. 2d 662, 668, 671 (D.N.J. 2003) (holding that the automatic stay regulation creates a “patently unfair situation by ‘tak[ing] the stay decision out of the hands of the judges altogether and giv[ing] it to the prosecutor who has by definition failed to persuade a judge in an adversary hearing that detention is justified’ ” and “renders the Immigration Judge's bail determination an empty gesture”). The automatic stay provision strips the process of any impartiality, allowing Respondents to act both as the prosecution and the judge in making a unilateral and unreviewed decision as to detention. This presents a risk of error weighing in favor of Petitioner.

3. Respondents’ Competing Interests and Burdens of Additional or Substitute Procedures

[27] Lastly, the Court recognizes that the Government “does, indeed, have a legitimate interest in ensuring noncitizens’ appearance at removal proceedings and preventing harms to the community.” See *Sampiao*, — F.Supp.3d at —, 2025 WL 2607924, at *12. However, on the record before the Court, Respondents have made only highly speculative arguments regarding Petitioner's risk of flight. (See ECF NO. 1-6, PageID.84 (arguing that Petitioner's decision not to voluntarily provide evidence that he filed taxes in United States with his request for bond could be an indicator of possible criminal activity)). Notably, continuing to enforce Petitioner's detention would likely impose more costs upon the Government, as it would be required to continue funding and overseeing Petitioner's detention. See *Sampiao*, — F.Supp.3d at —, 2025 WL 2607924, at *12.

Moreover, the INA has in place a procedure that would allow Respondents to seek a stay before an impartial decision-maker based upon an individualized assessment. Under 8 U.S.C. § 1003.19(i)(1),

[t]he Board of Immigration Appeals (Board) has the authority to stay the order of an immigration judge redetermining the conditions of custody of an alien when the Department of Homeland Security appeals the custody decision or on its own motion. DHS is entitled to seek a discretionary stay (whether or not on an emergency basis) from the Board in connection with such an appeal at any time.

8 C.F.R. § 1003.19(i)(1). Respondents do not argue that they were unable to request a stay. Therefore, the Court concludes that Respondents’ interests are adequately protected by alternative mechanisms already in place.

In sum, the Court's balancing of the *Mathews v. Eldridge* factors weighs in Petitioner's favor. Therefore, the Court finds that Petitioner's current detention violates Petitioner's Fifth Amendment due process rights. As the Eastern District of Michigan recently stated, "[t]he recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests." *Lopez-Campos*, --- F.Supp.3d at ---, 2025 WL 2496379, at *10.

Because the IJ is in the better position to evaluate whether Petitioner poses a flight risk and a danger to the community, the Court defers to the IJ's sound discretion and will order Petitioner's immediate release on the terms set by the IJ, including the bond of \$5,000.

VI. Request for Dismissal of Respondents Lyons and Noem

[28] [29] [30] Respondents request that the Court dismiss as Respondents Acting Director of ICE Todd Lyons and United States Secretary of Homeland Security Kristi Noem because they are not custodians within the meaning of 28 U.S.C. § 2243. (Resp., ECF No. 4, PageID.159.) "The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody." *Braden v. 30th Jud. Circuit Ct. of Ky.*, 410 U.S. 484, 494–95, 93 S.Ct. 1123, 35 L.Ed.2d 443 (1973). Thus,

*12 [r]ead literally, the language of [§] 2241(a) requires nothing more than that the court issuing the writ have jurisdiction over the custodian. So long as the custodian can be reached by service of process, the court can issue a writ 'within its jurisdiction' requiring that the prisoner be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the prisoner himself is confined outside the court's territorial jurisdiction.

Id. at 495, 93 S.Ct. 1123.

The Sixth Circuit has "concluded that a detained alien generally must designate his immediate custodian—the INS District Director for the district where he is being detained—as the respondent to his habeas corpus petition." *Roman v. Ashcroft*, 340 F.3d 314, 322 (6th Cir. 2003). Here, Petitioner has named Field Office Director of the Detroit Field Office of ICE Robert Lynch as a Respondent and Petitioner's immediate custodian. (Pet., ECF No. 1, PageID.12.) Respondent contends that Lynch is the only proper Respondent in this case. (Resp., ECF No. 4, PageID.159.)

In *Roman*, the Sixth Circuit stated that while it "conclude[d] that the immediate custodian rule generally applies to alien habeas corpus petitioners, [there is] the possibility of exceptions to this rule." *Roman*, 340 F.3d at 322. The *Roman* court went on to note:

Some courts are also willing to make an exception to the immediate custodian rule in other extraordinary circumstances. For example, courts have noted the INS's ability, as a practical matter, to deny aliens any meaningful opportunity to seek habeas corpus relief simply by transferring aliens to another district any time they filed a habeas corpus petition. *Chavez-Rivas*, 194 F. Supp. 2d at 374. Aliens remaining in detention for extended periods are often transferred several times during their detention. See *Lee v. Ashcroft*, 216 F. Supp. 2d 51, 55 (E.D.N.Y.2002) ("[T]he location of custody, and the identity of the day-to-day custodian, frequently change when detainees are transferred among INS facilities, all of which are under the control of the Attorney General."); Rosenbloom, *supra*, at 549. In light of these transfers, one court reasoned that an alien may properly name a respondent other than his immediate custodian because a petition naming a higher level official, such as the Attorney General, could be adjudicated without interruption in the event of a transfer. *Arias-Agramonte v. C.I.R.*, 2000 WL 1617999, at *8 [(S.D.N.Y. Oct. 30, 2000)] (explaining that a petition naming only one's immediate custodian would be dismissed when the alien was transferred to another local district).

Id. at 325–26. Thus, the Sixth Circuit concluded, "an exception might be appropriate if the INS were to exercise

its transfer power in a clear effort to evade an alien's habeas petitions." *Id.* at 326.

In light of the foregoing and to ensure that Respondents maintain authority to enforce this Court's grant of habeas relief in the event of a transfer, the Court will not dismiss Acting Director Lyons and Secretary Noem as Respondents to these proceedings.

Conclusion

For the reasons discussed above, the Court will enter an order and judgment granting the petition pursuant to *28 U.S.C. § 2241* as it pertains to Petitioner's request for a writ of habeas corpus ordering Respondents to release

Petitioner on bond. Petitioner shall be released from custody, immediately, subject to the conditions previously imposed by the Immigration Judge, including the \$5,000 bond. Within two (2) business days of the date of this order, Respondents shall file a status report with the Court to certify compliance with the Court's opinion and judgment.

*13 The Court will deny the petition as to Petitioner's remaining requests for relief for lack of jurisdiction under *§ 1252(g)*.

The Court will deny Respondents' request to dismiss Respondents Lyons and Noem.

All Citations

--- F.Supp.3d ---, *2025 WL 3012033*

Footnotes

- 1 Subsection (c) refers to the "[d]etention of criminal aliens," which does not apply here. See *8 U.S.C. § 1226(c)*.
- 2 This Court is far from the first federal district court to reach this conclusion. See, e.g., *Lopez-Campos*, --- F.Supp.3d at ---, *2025 WL 2496379*, at *8; see also *Rodriguez v. Bostock*, *779 F. Supp. 3d* at 1256-61; *Singh v. Lewis*, No. 4:25-cv-96-RGJ, *2025 WL 2699219*, at *3-5 (W.D. Ky. Sept. 22, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, --- F.Supp.3d ---, ---, *2025 WL 2691828*, at *7-12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, 1:25-cv-1774-SEB-MJD, *2025 WL 2694763*, at *2-5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408 (LMB/IDD), --- F.Supp.3d ---, ---, *2025 WL 2682255*, at *5-9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS, *2025 WL 2652880*, at *2-3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, *2025 WL 2472136*, at *2-4 (W.D. La. Aug. 27, 2025); *Romero v. Hyde*, No. 1:25-cv-11631-BEM, --- F.Supp.3d ---, ---, *2025 WL 2403827*, at *8-13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, --- F.Supp.3d ---, ---, *2025 WL 2374411*, at *9-16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, *2025 WL 2370988*, at *6-9 (D. Mass. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. 1:25-cv-05937-DEH, --- F.Supp.3d ---, ---, *2025 WL 2371588*, at *3-9 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, *2025 WL 2337099*, at *6-11 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, *2025 WL 2349133* (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, *2025 WL 1869299*, at *6-8 (D. Mass. July 7, 2025).

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Jose Onilson PUERTO HERNANDEZ, A [REDACTED]

Respondent

FILED
Dec 12, 2025

ON BEHALF OF RESPONDENT: Alan J. Pollack, Esquire

ON BEHALF OF DHS: Gregory K. Mayer, Assistant Chief Counsel

IN BOND PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Elizabeth, NJ

Before: Volkert, Appellate Immigration Judge

VOLKERT, Appellate Immigration Judge

The Department of Homeland Security (“DHS”) appeals from the Immigration Judge’s August 26, 2025, decision granting the respondent’s request for a change in custody status and ordering him released on bond. The Immigration Judge issued a bond memorandum on September 17, 2025, setting forth the reasons for the bond decision. The respondent, a native and citizen of Honduras, has not responded to the appeal. We will sustain the appeal.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge found that he had jurisdiction over the respondent’s request for custody redetermination and concluded that the respondent does not present a danger to the community or an unmitigable flight risk (IJ Bond Memo at 1-3). Accordingly, the Immigration Judge granted the respondent’s request for release from custody (IJ Bond Memo at 4).

DHS argues on appeal, as it did below, that the respondent is an “applicant for admission” and is subject to mandatory detention under section 235(b)(2)(A) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1225(b)(2)(A) (DHS Notice of Appeal). An applicant for admission is defined in part as “an alien present in the United States who has not been admitted.”¹

¹ “An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be

(continued...)

A [REDACTED]

INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). During the pendency of the instant appeal, we held that under a plain language reading of the INA, Immigration Judges lack authority to hear bond requests or grant bond to aliens who are present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). We determined that the statutory text of the INA is clear and explicit in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years they have been residing in the United States without lawful status. See INA § 235(b)(1), (2), 8 U.S.C. § 1225(b)(1), (2); see also *Matter of Yajure Hurtado*, 29 I&N Dec. at 226.

The Immigration Judge found that the respondent entered the United States without being admitted or paroled after inspection by an immigration officer (IJ Bond Memo at 1). The respondent has not challenged that finding. In light of our intervening decision in *Matter of Yajure Hurtado*, we conclude that the respondent is an applicant for admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A). Accordingly, neither the Immigration Judge nor this Board has the authority to grant his request for release on bond. We will therefore sustain DHS' appeal.

Accordingly, the following order will be entered.

ORDER: The appeal is sustained and the Immigration Judge's August 26, 2025, order granting the respondent's release on a payment of \$5,000 bond is vacated.

deemed for purposes of this chapter an applicant for admission." INA § 235(a)(1), 8 U.S.C. § 1225(a)(1).

Exhibit 6

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Exhibit 6

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